

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF NEW MEXICO**

ZIA SHADOWS, L.L.C., a New  
Mexico Limited Liability Company,  
ALEX GARTH and WILLIAM  
GARTH,

Plaintiffs,

v.

CV 9-909 WPL/SMV

CITY OF LAS CRUCES, NEW  
MEXICO, a municipal corporation,

Defendant.

**ORDER ON MOTIONS IN LIMINE AND PROPOSED VOIR DIRE**

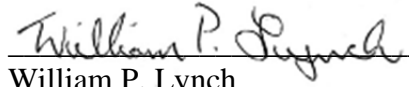
Plaintiffs have filed a Motion in Limine to preclude the City from arguing to the jury its defenses of statute of limitations, waiver and estoppel. (Doc. 144.) As discussed at the pre-trial conference, I will allow the jury to consider the factual issues surrounding these defenses. (Doc. 168 at 1-2.) Accordingly, Plaintiffs' Motion in Limine is denied.

The City has filed a Motion in Limine which seeks to preclude testimony from Michael Kahaian, Plaintiffs' expert witness, because the damages presented in his testimony are barred by the statute of limitations and because the PUD development was tabled at the request or agreement of Plaintiffs. (Doc. 139 at 1-4.) The City's Motion to preclude this testimony raises issues of fact that must be resolved by the jury; therefore, this part of the motion must be denied. The City also seeks to preclude testimony about a lien that the City allegedly placed on Plaintiffs' property. (*Id.* at 4-5.) I have considered the arguments made by Plaintiffs in their Trial

Brief (Doc. 174 at 4-5) and agree that Plaintiffs can present the testimony outlined therein. Accordingly, this part of the City's Motion must also be denied.

Finally, I have considered the proposed voir dire submitted by both parties. (Doc. 141 and 145.) I will ask the questions I deem appropriate and will allow the parties 20 – 30 minutes each for follow up questioning. The parties are directed not to ask for information that is clearly provided in the juror questionnaires (*i.e.*, employment status, marital status) but may ask for supplemental or additional information as necessary.

IT IS SO ORDERED.

  
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William P. Lynch  
United States Magistrate Judge